

City Council Introduction: **Monday**, November 4, 2002

City Council Public Hearing: **Monday**, November 18, 2002, at **1:30 p.m.**

Bill No. 02-166

## **FACTSHEET**

**TITLE:** **CHANGE OF ZONE NO. 3370**, from AG Agricultural to AGR Agricultural Residential, requested by Kent Seacrest on behalf of Connie Heier and Patricia Slaughter, on property generally located at the southeast corner of So. 112<sup>th</sup> Street and Old Cheney Road.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 10/16/02  
Administrative Action: 10/16/02

**STAFF RECOMMENDATION:** **Denial**, if Comprehensive Plan Amendment No. 02002.4 is denied; **Approval** if the Comprehensive Plan is amended to show Low Density Residential.

**RECOMMENDATION:** **Approval** (5-4: Bills-Strand, Krieser, Larson, Duvall and Schwinn voting 'yes'; Steward, Carlson, Newman and Taylor voting 'no').

**ASSOCIATED REQUEST:** Comprehensive Plan Amendment No. 02002.4 (02R-263)

### **FINDINGS OF FACT:**

1. This Change of Zone request and the associated Comprehensive Plan Amendment No. 02002.4 were heard at the same time before the Planning Commission.
2. The staff recommendation to **deny** this change of zone request is based upon the "Analysis" as set forth on p.4-5, concluding that the proposed change of zone is not in conformance with the adopted Comprehensive Plan, the Mayor's position paper on acreages, or the primary character of the area.
3. The applicant's testimony is found on p.6-8.
4. There was no testimony in opposition.
5. On October 16, 2002, the Planning Commission disagreed with the staff recommendation and voted 5-4 to recommend **approval** (Steward, Carlson, Newman and Taylor dissenting). See Minutes, p.8.
6. On October 21, 2002, a letter was sent to the applicant from Mike DeKalb of the Planning Department, pointing out several misstatements in the applicant's testimony to the Planning Commission on this Change of Zone and the associated Comprehensive Plan Amendment request (p.21-23).

**FACTSHEET PREPARED BY:** Jean L. Walker

**DATE:** October 29, 2002

**REVIEWED BY:** \_\_\_\_\_

**DATE:** October 29, 2002

**REFERENCE NUMBER:** FS\CC\2002\CZ.3370

## LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

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**P.A.S.:** Change of Zone #3370

**DATE:** October 2, 2002

**SCHEDULED PLANNING COMMISSION**

October 16, 2002

**PROPOSAL:** A change of zone from AG Agriculture to AGR Agricultural Residential

**LAND AREA:** 214.43 Acres, more or less

**CONCLUSION:** This is not in conformance with the adopted 2025 Comprehensive Plan, the Mayor's position paper on acreages, or the primary character of the area. This is related to a Comprehensive Plan request that was deferred for review and action this summer as part of the follow up to the 2025 Plan.

<b>RECOMMENDATION:</b>	Denial if the Comprehensive plan amendment is denied Approval if the Plan is amended to show Low Density Residential
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### **GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** Lots 14, 16, 18, 19 and a 27.25 acre parcel in Section 18, T 9 N, R 8 E of the 6<sup>th</sup> P.M., Lancaster County NE.

**LOCATION:** Generally located at the southeast corner of S. 112<sup>th</sup> St. and Old Cheney Rd.

**APPLICANT:** Connie Heier  
2600 South 13<sup>th</sup> Street  
Walton, NE 68461  
(402)  
  
Patricia Slaughter  
507 Red Bird Lane  
South Sioux City, NE 68776

**OWNER:** same

**CONTACT:** Kent Seacrest  
1111 Lincoln Mall, Suite 350  
Lincoln, NE 68508  
(402) 435-6000

**EXISTING ZONING:** AG Agriculture

**EXISTING LAND USE:** Farmland and a farm pond

**SURROUNDING LAND USE AND ZONING:**

North: Ag land, zoned AG Agriculture  
South: Five acreages abutting to the south, Ag land to the south, Hidden Valley Golf Course to the southwest; zoned AG Agriculture  
East: Agriculture, Zoned AG Agriculture  
West: Agriculture and acreages (Hidden Valley Estates), Zoned AG Agriculture and AGR Agriculture Residential

**ASSOCIATED APPLICATIONS:** This relates to Comprehensive Plan Amendment #02002 Proposal #4 requesting it be shown as Low Density Residential.

**HISTORY:** Changed from County AA Rural and Public Use to AG Agriculture in the **1979** Zoning Update.

**COMPREHENSIVE PLAN SPECIFICATIONS:**

The 2025 Comprehensive Plan shows this as Agricultural on the Land Use Plan. This is shown in the Tier II growth area ( 25-50 year growth area). The plan states;

In determining areas of higher density rural acreage (200 units or more per square mile), numerous factors will be reviewed, such as but not limited to water and rural water districts, soil conditions, roads, agricultural productivity, land parcelization, amount of existing acreages, and plans for urban or town development. Acreages should develop in areas that best reflect the carrying capacity of that area for acreages. A performance criteria should be developed to review requests for acreage zoning and to determine where these standards can best be met. Page F 70

New urban acreage development is not encouraged in the Plan Vision Tier I areas for Lincoln, except for areas already zoned, previously designated for acreages or under development, in order to provide areas for future urban growth and to minimize the impact on new acreage development. This will reduce the number of acreage homeowners who would be impacted by annexation in the future. Even though acreages can be designed with infrastructure to city standards, there is still an impact on acreage owners and their families during annexation in terms of changes in school district, the character of the surrounding area and financial implications. Impacts to the acreage homeowners and to the City of Lincoln can be avoided by locating acreages in areas outside of the Tier I areas Page F 70

“New ‘urban acreage’ development should only be permitted in Tier II and Tier III area of Lincoln and near towns under higher design standards based upon a “buildthrough” model and without use of sanitary improvement districts. The “build through” design standards should address, along with other items deemed necessary to the study:

- a preliminary plan lot layout that accommodates first phase low density acreages with rural water and sewer systems. The preliminary plat would also show future lot splits as a second

phase to permit the urban infrastructure to be built through and urbanization to occur if and when annexed by a city or town is deemed appropriate. The future lot splits will increase density in an urban form and provide income to property owners to defray the increases in city taxes, services and infrastructure costs;

- a lot layout that meets the various elements of the Comprehensive Plan; and
- a development agreement that runs with the land and acknowledges that the acreage development (i) is not entitled to extra buffering protection greater than the acreage property lines from existing agricultural practices and from future urbanization and (ii) waives any future right to protest the creation of lawful centralized sanitary sewer, water and paving special assessment districts or other lawful financing methods at a later date when urbanization is appropriate.

When the independent study to quantify and qualify the positive and negative economics of acreage development is completed, the county should determine if an impact fee or other development exactions are needed to be sure acreage development is paying its “fair share” of costs. The study should include a review of policy issues and options such as the build-through concept, lot size, acreage standards, acreages and town relationships, acreages and sensitive areas, agriculture, acreage clusters, desired acreage population, acreage size and land use consumption and AGR zoning. (page F79)

**UTILITIES:** There is no public sewer available. This area is in Lancaster Rural Water District #1.

**TOPOGRAPHY:** Gently rolling hills, falling off to the northeast.

**TRAFFIC ANALYSIS:** Old Cheney Road is paved west and gravel east of 112<sup>th</sup> Street. Pine Lake Road is paved west and gravel east of 112<sup>th</sup> Street. 112<sup>th</sup> and 120<sup>th</sup> streets are gravel county roads. Old Cheney Road is shown for future grading and paving in the County Engineers 1-6 year road program.

**PUBLIC SERVICE:** This area is served by the Cheney Public School District , the Bennet Rural Fire District, and is in the Norris Public Power District service area.

**REGIONAL ISSUES:** The location and timing of acreage development and farming. Management of future Lincoln growth areas.

**ENVIRONMENTAL CONCERNS:** The soil rating is approximately 5.12 on a scale of 1 - 10 where 1-4 is prime agricultural soil. This is not prime agriculture soil. There is no FEMA flood plain recorded on the site. There is an existing farm pond and a future NRD farm pond is proposed at the north end of the parcel.

**AESTHETIC CONSIDERATIONS:** NA

**ALTERNATIVE USES:** Farming or 10, 20+acre parcels, perhaps 11-14 lots in an AG Community Unit Plan.

## **ANALYSIS:**

1. This application was filed on June 4, 2002 and is scheduled to the Planning Commission with the associated plan amendment at the request of the applicant.
2. This proposal is a request for a change of zone from AG Agriculture to AGR Agriculture residential. This request is tied to Comprehensive Plan Amendment 02002, Proposal #4, to show the area as “yellow”, Low Density Residential.
3. If the Plan amendment is denied, this application will not be in conformance with the Plan and should be denied or deferred pending the buildthrough and performance standards. If the amendment is approved, the request will be in conformance with the land use designation and has the same status as those areas in the prior plan that have been shown but are not yet zoned, a presumption of approval.
4. The County Engineer recommends denial. They do not recommend approval without an accompanying Preliminary Plat.
5. Engineering Services recommends the change of zone be deferred until the “build thru model” is developed.
6. The Mayor’s acreage policy letter of June 11, 2002 (attached) notes that new applications follow the plan and the mayor will veto those applications prior to development of the studies and standards described in the Plan. He also notes areas shown or zoned for future acreage development will not be opposed.
7. Development potential of this land would be 10 dwelling units under the AG zoning and about 71 dwellings under AGR zoning.
8. The ‘buildthrough” study has not been initiated and the development of a “performance” scoring system for acreage change of zone applications has not been initiated. However, if the AGR zoning is approved, it will be difficult to deny a preliminary plat that meets the subdivision regulations.
9. This is not in character with most of the development of the area.
10. No preliminary plat or water information has been submitted with this Change of Zone.
11. The Planning Commission, during its deliberations on the 2025 Comprehensive Plan, did defer 13 site specific Plan amendment requests for consideration this summer. This is one of those requests.

Prepared by:

Mike DeKalb, AICP  
Planner

**COMPREHENSIVE PLAN AMENDMENT NO. 02002.4**  
**PROPOSAL #4**  
**So. 112<sup>th</sup> to 120<sup>th</sup> Streets, South of Old Cheney Road**  
**and**  
**CHANGE OF ZONE NO. 3370**

**COMPREHENSIVE PLAN AMENDMENT NO. 02002**

**14 LAND USE PROPOSALS.**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 16, 2002

Members present: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn.

Steve Henrichsen of Planning staff advised the Commission that these are the 14 land use proposals which came before the Planning Commission last April during the Comprehensive Plan update. The Planning Commission had recommended that these proposals be held over, and the City Council and County Board agreed. Proposal #1 requested by the School Sisters of Christ the King will not be heard today. The applicant previously requested that this proposal be deferred.

*(Editorial Note: The Commission held public hearing on all 13 land use proposals before taking administrative action on any of them. Once the public hearing was closed, the Commission went back to Proposal #2 and voted on each proposal separately. For purposes of organization and clarity, the action taken by the Commission at the close of the public hearing is being inserted with the appropriate proposal within this minutes documents.)*

**COMPREHENSIVE PLAN AMENDMENT NO. 02002**

**PROPOSAL #4**

**and**

**CHANGE OF ZONE NO. 3370**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 16, 2002

Members present: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn.

Staff recommendation: Denial of both the Comprehensive Plan Amendment and the Change of Zone. If the Comprehensive Plan Amendment is approved by the Planning Commission, staff recommends that the Change of Zone also be approved.

**Proponents**

**1. Kent Seacrest** appeared on behalf of the applicants, **Connie Heier and Patricia Slaughter**. Winona Ketelhut is not an owner of any of the property and is not a party to this proposal. Seacrest also requested that the associated Change of Zone No. 3370, Item No. 3.5 on today's agenda, be read

into the record to be heard at the same time as this Comprehensive Plan Amendment. The Commission agreed and the Clerk read Change of Zone No. 3370 into the record.

The purpose of the change of zone from AG to AGR is to allow acreage development on approximately 220 acres.

Seacrest noted that there are four other proposed Comprehensive Plan Amendments being considered today for low density residential and staff is recommending denial. He believes the fact pattern on this proposal is different from the others in many ways. Seacrest's clients have had plans to develop this property into acreages for over 5 years, but there was something called the East Beltway Study and all discussion of rezoning in this corridor was prohibited. These applicants were good corporate citizens and waited. Then it became time to do the new Comprehensive Plan. Again, these applicants went through the proper process. They applied over a year ago for the Comprehensive Plan designation and went through the Comprehensive Plan process. During that process acreage development became controversial. Seacrest came along with others to propose the "build-through" acreage model that was adopted as part of the Comprehensive Plan. To his clients' credit, they also endorsed the build-through model.

Then at the time of the approval of the Comprehensive Plan, the Planning Commission decided to delay this proposal and then "we became known as the 'twilight zone'". When we are here today, what standard are you judging us on? The old plan, or the new plan (which the Commission could have voted on that day and chose not to)? The Mayor tried to address the "twilight zone" issue and Seacrest read from the Mayor's letter dated June 11, 2002:

"...I also understand the consideration of "fairness" and the difficulty these transitional situations present in reviewing proposed development. As such, I am prepared in this case to support the Commission, Council and Board should you choose to review these applications using the standards from the prior Comprehensive Plan. ...".

Seacrest believes this should be the standard followed. Thus, Seacrest went on to state that within this section there are eight existing acreage developments. Immediately to the west across 112<sup>th</sup> Street there are 44 acreage developments. We have Old Cheney Road and Pine Lake Road. The property can be served by a rural water district. The Stevens Creek Master Plan shows a NRD detention pond on our site. This is a great mixed-use opportunity. The staff report even indicates that we do not have primary soil. There are two school sites, churches, parks and a new shopping center in the near area, providing all the urban type services. Seacrest submitted that this proposal meets and exceeds the prior Comprehensive Plan standard for acreage designation.

As far as the new Comprehensive Plan, Seacrest pointed out that this property is shown as Tier II (acreages are prohibited in Tier I). It provides that Tier II and Tier III should be based upon a "build-through" model. That model suggests that where and when you come in with the rural standard of 3-5 acres, with rural water, rural sewer, and rural roads, you must master plan so that you can bring in the urban services if and when they are ready to come in, i.e. show where the utility corridors are and agree that they can be split.

Seacrest pointed out that the staff recommendation of denial again asks these applicants to wait for 3 more studies which have been incorporated in the new Comprehensive Plan. Pursuant to the Mayor's letter of June 11, 2002, Seacrest believes that this proposal should be judged on the prior standards as opposed to waiting for the three studies. With the ability to have rural water, this proposal does not have a water quantity or quality problem, and we have repeatedly pledged to submit a preliminary plan based on the "build-through" model. Seacrest purported that there is no reason to turn this down. Approving this request will not "let the horses out of the barn". There are only four applications that were submitted prior to the Comprehensive Plan. This is not going to set a precedent. This proposal clearly meets the standards of the old Plan, which, according to the Mayor, is the "fair standard". Seacrest looks forward to working on the "build-through" model. He believes this proposal can meet the spirit of the new Plan.

There was no testimony in opposition.

Public hearing was closed.

**COMPREHENSIVE PLAN AMENDMENT NO. 02002.4**  
**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

October 16, 2002

Bills-Strand moved approval, seconded by Duvall.

Steward commented that in spite of the applicant's appeal for "fairness", he believes "appropriateness" is a better issue. He believes too much has happened since the approval of the Beltway and the Comprehensive Plan to make this an appropriate location for the proposed use and he will oppose the motion.

Newman agreed with Peter Katt's testimony on Proposal #5. It's either all or nothing, and she will be voting against all of the acreage proposals until we get that "build-through" model.

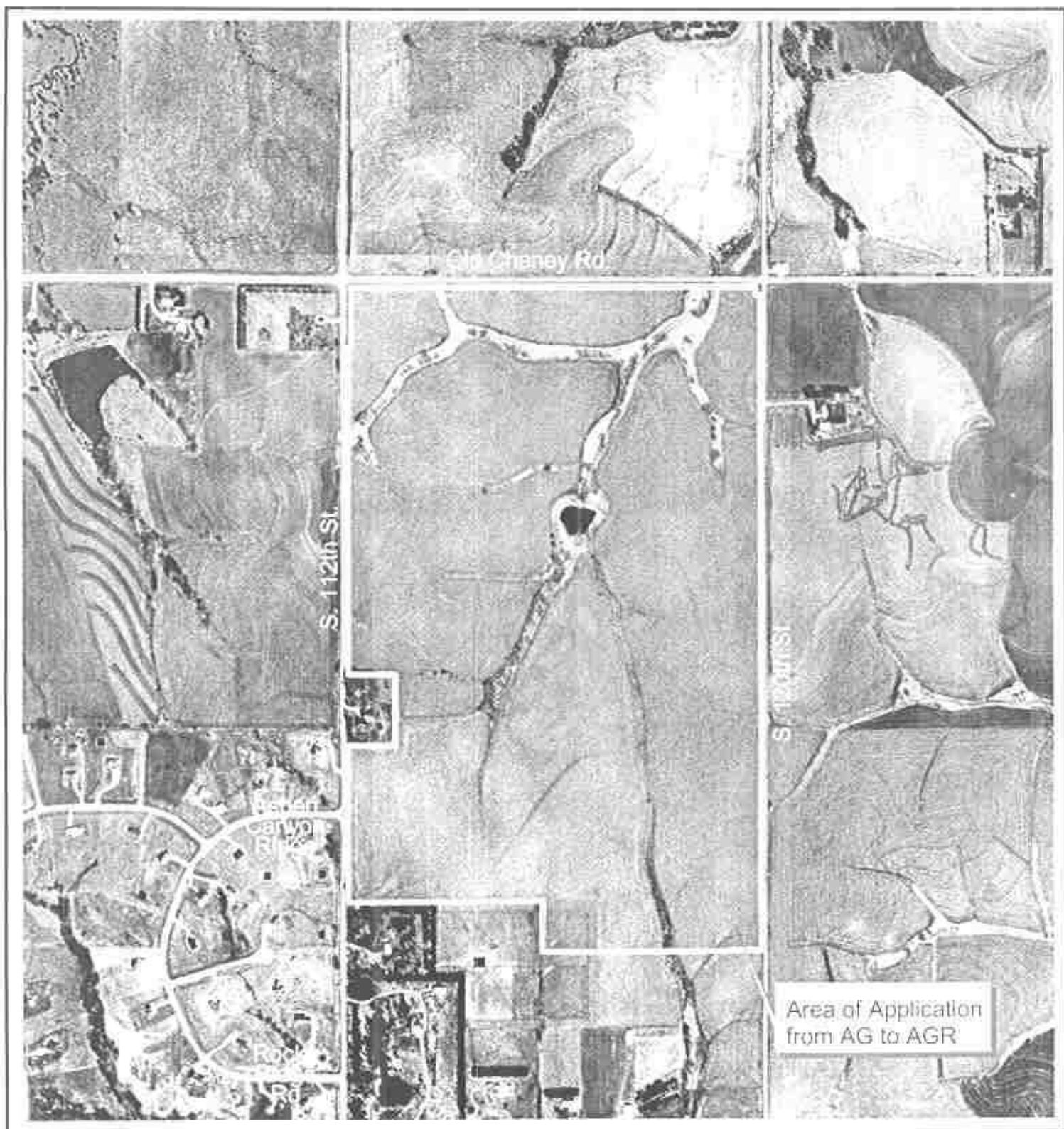
Motion for approval carried 5-4: Bills-Strand, Krieser, Larson, Duvall and Schwinn voting 'yes'; Steward, Carlson, Newman and Taylor voting 'no'.

**CHANGE OF ZONE NO. 3370**  
**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

October 16, 2002

Duvall moved approval, seconded by Newman and carried 5-4: Bills-Strand, Krieser, Larson, Duvall and Schwinn voting 'yes'; Steward, Carlson, Newman and Taylor voting 'no'.





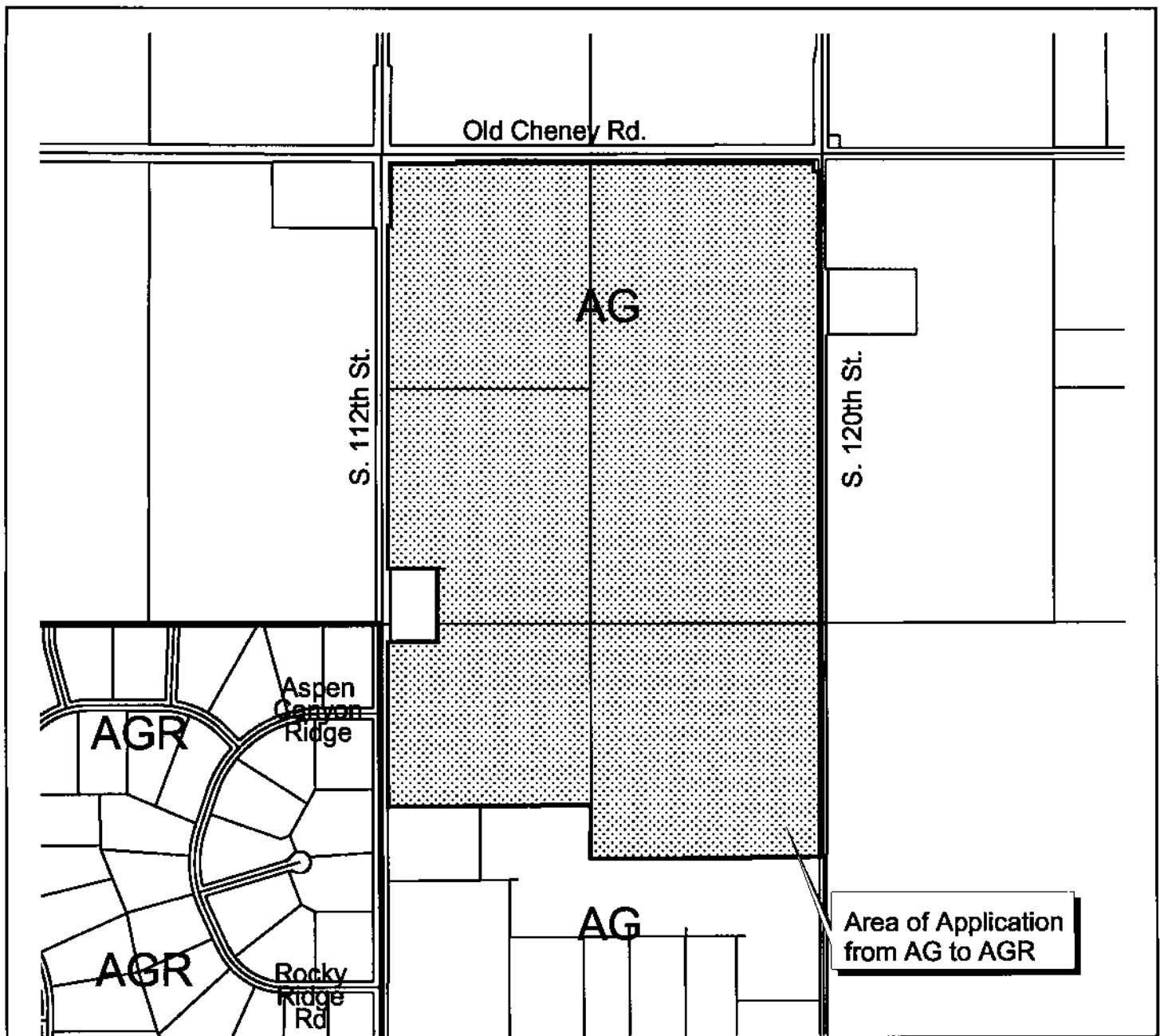
Change of Zone #3370  
S. 120th & Old Cheney Rd.



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Photograph Date: 1997

Leiden City - Lancaster County Planning Dept.

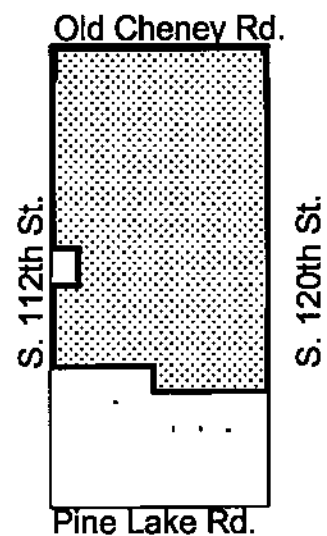
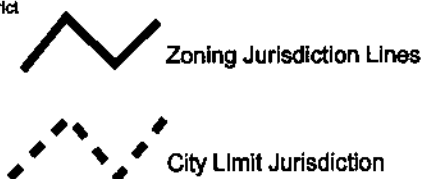


## Change of Zone #3370 S. 120th & Old Cheney Rd.

### Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile  
Sec. 18 T9N R8E



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# SEACREST & KALKOWSKI, P.C.

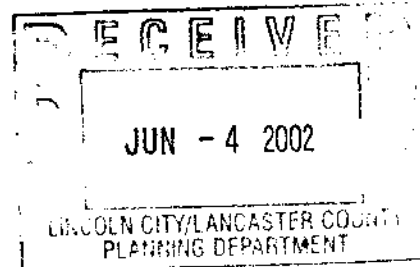
1111 LINCOLN MALL, SUITE 350  
LINCOLN, NEBRASKA 68508-3905

TELEPHONE (402) 435-6000  
FACSIMILE (402) 435-6100  
E-MAIL: cathie@sklaw.inetnebr.com

KENT SEACREST  
DANAY KALKOWSKI

June 3, 2002

Kent Morgan  
Interim Planning Director  
County-City Building  
555 South 10<sup>th</sup> Street  
Lincoln, NE 68508



RE: Request for AGR Zoning

Dear Kent:

Congratulations on guiding this community through the approval of the new Comprehensive Plan. Overall you must be pleased. I know the acreage policy did not end up the way the Planning Department wanted. However, what is important now is to work together on the new build through model.

As you know, our law firm represents Patricia Slaughter and Connie Heier in regards to their property between 112<sup>th</sup> and 120<sup>th</sup> Streets and between Old Cheney Road and Pine Lake Road, approximately 215 acres (Lots 14, 16, 18, 19 and a 27.25 acre parcel in Section 18, Township 9N, Range 8E). Previously, we submitted a comprehensive plan amendment request that the subject Property be shown as Residential, Low Density in the new Comprehensive Plan. That request was deferred by the Planning Commission, along with approximately 16 other site specific requests. It is our understanding that the comprehensive plan amendment requests will have a public hearing in front of the Planning Commission this summer.

Enclosed herein please find Change of Zone Application from AG to AGR in regard to the Property. We would appreciate it if this Change of Zone could have a public hearing the same day as our comprehensive plan amendment.

We are making this request with the commitment and understanding that the proposed acreage development on this tract would be done under a proposed build through model and not the traditional acreage model. Under normal circumstances, we would also be submitting a community unit plan/preliminary plat. However, I have advised the client not to proceed to detailed and costly engineering until there is more dialogue with the Planning Department, Public Works and County Engineer's Office as to the proposed criteria for the build through model.

The Property will be master planned to protect and enhance the proposed NRD water and stormwater improvements, wetlands and other natural open spaces. The first stage 'acreage' build out of the Property will be an AGR Community Unit Plan, based upon an average 3+ acre lot size with septic tanks and either well or Rural Water District water. The AGR lot layout, street right of way and utility corridors will be designed to accommodate urban "type" central water, sanitary sewer and other utilities when such services are available to this section of the Stevens Creek basin. The average 3+ acre lots in the first stage acreage build out will be designed to be someday individually replatted into 3 or more smaller lots (per the R-3 zone) which will accommodate urban density and the City's central utility distribution and collection systems.

This second stage 'urban' build out of development would occur if and when City urban services are available to the site based upon the orderly urban development of the Stevens Creek basin. This planned AGR first stage acreage build out/R-3 second stage urban build out will accommodate housing demands in this portion of the County and still provide the orderly and planned transition into the City limits at a later date.

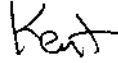
We believe it is appropriate to zone the Property as Residential, Low Density in the new Comprehensive Plan for the following additional reasons:

1. The balance of Section 18, Township 9N, Range 8E to the south already includes eight (8) existing acreages.
2. Immediately across 112<sup>th</sup> Street and west of the Property, there are 44 acreage home sites known as Hidden Valley Estates and developed by Mary Joe Livingston. Hidden Valley Golf Course is also across the street to the south.
3. Old Cheney Road is already paved to the Property at 112<sup>th</sup> Street and Old Cheney Road. Lancaster County has near term plans to continue the asphalt pavement to the east and pave Old Cheney Road along the north boundary of the Property. Similarly, Pine Lake Road is already paved to this Section at 112<sup>th</sup> Street and Pine Lake Road. And again, Lancaster County has plans to extend the Pine Lake Road paving to the east along the south section line.
4. The Property can be served by the Lancaster County Rural Water District No. 1 and there already exists two Rural Water District easements on the Property.
5. The NRD's Stevens Creek Plan shows a stormwater dam in the northeast corner of the Property on 120<sup>th</sup> and Old Cheney Road. This stormwater improvement is scheduled to start and be completed by the end of 2002. Our client would like to work toward making the stormwater improvement and surrounding area a more attractive amenity.

6. Two Lincoln Public School sites, residential housing developments, a new regional shopping area and other residential amenities and support services have recently been sited within one and a half miles of the Property.

We would appreciate you processing the AGR change of zone application. If you have any questions, please do not hesitate to contact the undersigned.

Very truly yours,

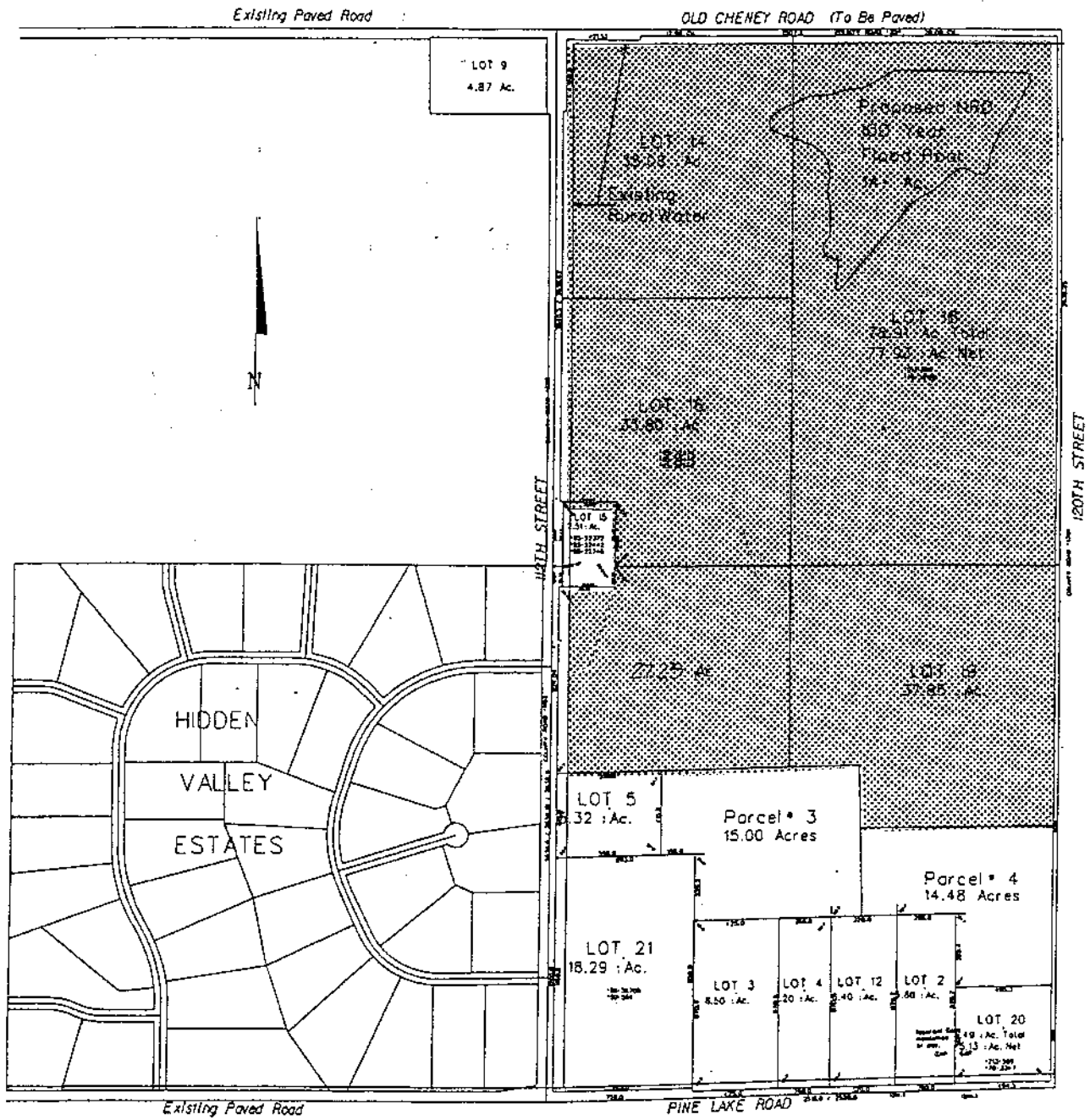


KENT SEACREST

For the Firm

Enclosure

cc with enclosure: Patricia Slaughter  
Connie Heier

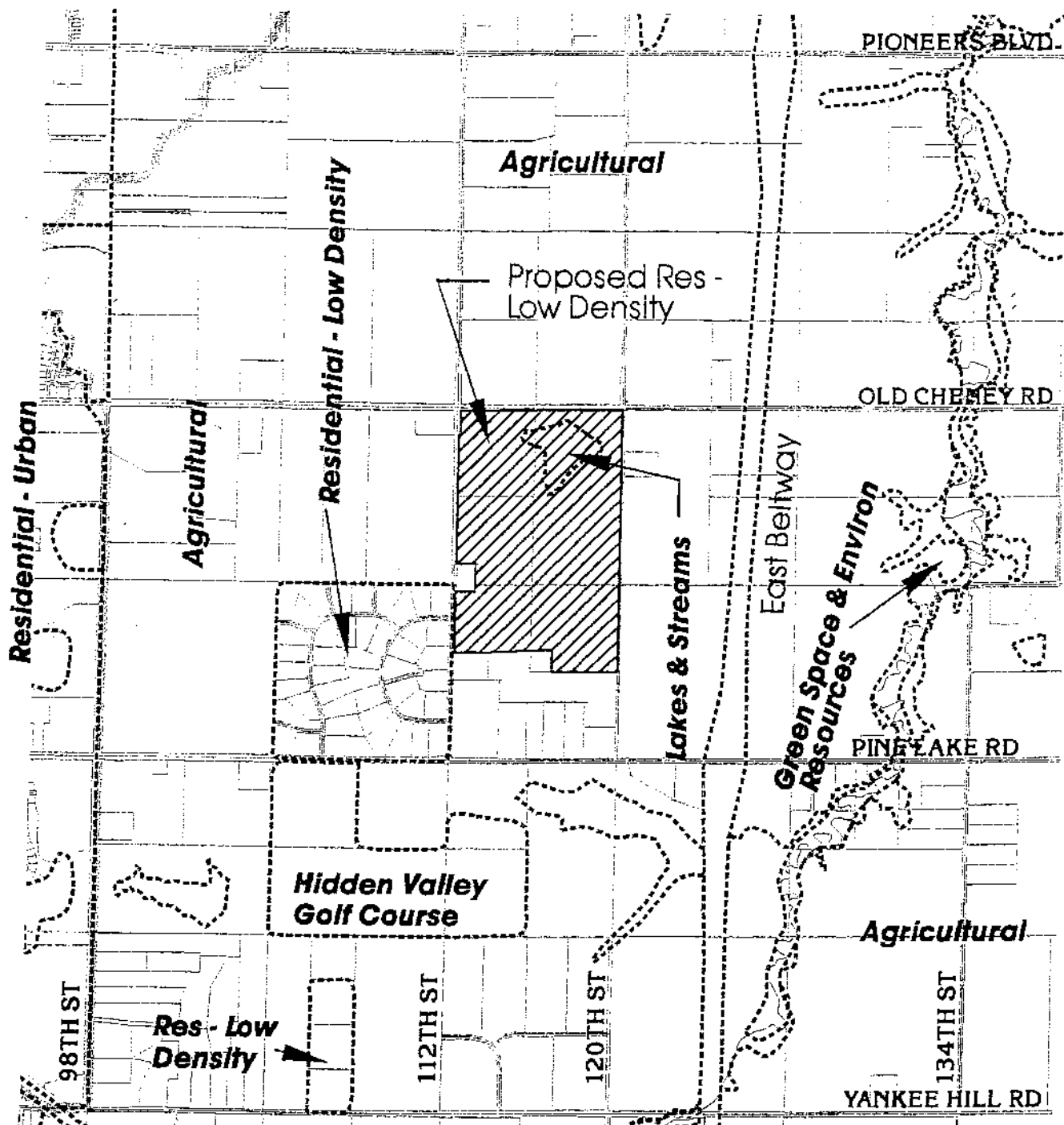


HIDDEN VALLEY  
GOLF COURSE

Legal Description




*portion of Lot 22 1/2, all north of Lot 5,*

Lots 14, 16, 18, 19 and a 27.25 acre ~~parcel~~ in Section 18, Township 9N, Range 8E,  
Lancaster County, Nebraska



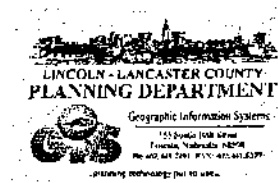
# 112th & Old Cheney Rd

## Comprehensive Plan Proposal # 4

-  Future Service Limit
-  Land Use Boundary
- Res** Land Use Category
-  From Agricultural to Res - Low Density



Scale: 1 inch = 2300 feet







**TO:** Lincoln City Council  
Lancaster County Board of Commissioners  
City-County Planning Commission

**FROM:** Don Wesely *DW*  
Mayor of Lincoln

**DATE:** June 11, 2002

**SUBJECT:** Acreage Development Policy within Lincoln's Jurisdiction

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On May 28, 2002, the Lincoln City Council and Lancaster County Board adopted a new *Lincoln-Lancaster County Comprehensive Plan*. On the following day, I signed the City Council's resolution approving the Plan for the City. With these actions, we now have a new vision and set of policies to guide growth in the City and County over the next 25 years.

The City Law Department has indicated to me that the policies contained in this new Plan take effect immediately. This fact -- along with the requirement that a number of studies be completed to further refine the Plan's acreage policy -- has raised a procedural issue relative to new acreage in the Tier II and III growth areas. This issue most directly affects eight acreage development requests submitted to the Planning Department for review prior to the adoption of the new Plan.

As called for in the Plan, we need to complete three studies in order to implement our new acreage policy:

- (1) "Build Through" Design Standards, guidelines allowing for future acreage development to be converted to an urban-style configuration when they are brought into the City;
- (2) Cost of Service Review, an independent analysis of the economic and quality of life impacts of acreages; and
- (3) Performance Standard "Point System," allowing for higher density acreage development when certain criteria are met.

The Plan states that the studies should be finished within one year from the adoption of the Comprehensive Plan.

The decision facing us is how to review the acreage development applications submitted prior to the completion of the standards and studies called for in the Plan. This includes the eight applications already submitted (a.k.a., "applications prior to the Plan adoption") as well as future applications submitted after the Plan's adoption date.

Based upon my review of the situation and consideration of all reasonable options, I am proposing that we pursue the following course of action:

1. "Applications Prior to Plan Adoption" – It is my belief that the acreage development applications submitted prior to the adoption of the Comprehensive Plan on May 29<sup>th</sup> should be judged on the basis of standards formulated for the new Plan. While the applications were submitted in advance of the Plan's adoption, the rules of the new Plan apply today, and thus any application process subsequent to the Plan's approval should comply with the new standards. However, I also understand the consideration of "fairness" and the difficulty these transitional situations present in reviewing proposed development. As such, I am prepared in this case to support the Commission, Council, and Board should you choose to review these applications using the standards from the prior Comprehensive Plan. Each case will need to be judged on its own merits and a determination made as to its appropriateness.
2. Future Applications – In support of the ideas and direction of the newly adopted Comprehensive Plan, I believe that any application for an acreage subdivision, change of zone, or community unit plan submitted after May 29<sup>th</sup>, 2002, must be judged against the standards of the new Plan. As such, I am recommending that all such applications be deferred until the new review standards can be developed and approved.

Therefore, I will not support and intend to veto acreage development applications in the Tier II and Tier III areas of the Plan until the studies and standards described above are complete. (The Plan calls for no acreage developments in Tier I. Thus it is my intent to veto any acreage applications in this area even following the adoption of any new standards.) One exception that is acceptable would be to allow three acre agriculture zoned "cluster" development to occur in the Tier II and III areas where 80% or more of the land is set aside and no community systems are used.

3. Undeveloped Areas Currently Zoned and/or Shown for Acreage Development – I understand that undeveloped areas remain in the City's extraterritorial jurisdiction which are shown and/or zoned for future acreage development. In deference to the spirit of the new Plan, I will not oppose new acreage developments in these areas.
4. Pursue Study Initiatives – Lastly, I fully support the immediate initiation of work to craft the standards for acreage development as called for in the new Comprehensive Plan. Unfortunately the "Cost of Services Study" will require funding not available until the start of the City's new fiscal year in September. Until that time I have directed staff to begin work on those areas of the new standards that can be initiated in the interim so that the ultimate completion of this effort will not be delayed.



Lancaster


County

Engineering

Department

DON R. THOMAS - COUNTY ENGINEER

DEPUTY - LARRY V. WORRELL  
COUNTY SURVEYOR

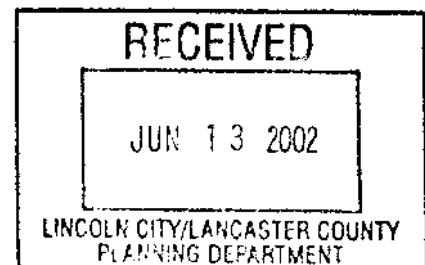
**DATE:** June 11, 2002  
**TO:** Jason Reynolds  
Planning Department  
**FROM:** Larry V. Worrell   
County Surveyor  
**SUBJECT:** CHANGE OF ZONE #3370

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Upon review, this office would recommend denial of this application. The applicant has made a point of future layout relating to the breakdown or replatting of 3<sup>±</sup> acre lots, for urban growth. When the consumer buys an acreage, they do not build for the future subdivision of their land. They build to suit their pleasure, thereby making the majority of their land useless for future urban growth.

The testimony by developers that building envelopes are not needed, may not be such a bad idea to have after all.

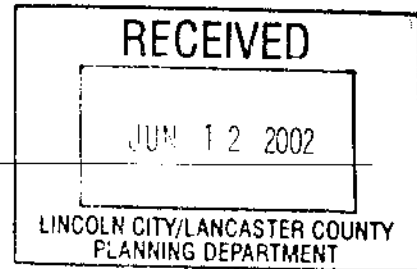
This office would not recommend approval of a Change of Zone without the accompanying submittal of a Preliminary Plat.



LWV/bml  
ZONE/#3370.MEM

019

# M e m o r a n d u m



**To:** Jason Reynolds, Planning  
**From:** ~~Jason~~ Dennis Bartels, Engineering Services  
**Subject:** Change of Zone, AG to AGR  
**Date:** June 11, 2002  
**cc:** Roger Figard  
Randy Hoskins  
Virendra Singh

Engineering Services has reviewed the proposed change of zone from AG to AGR for property located between 112th and 120th, Old Cheney to Pine Lake and has the following comments:

1. The letter references platting this property with a proposed "build thru model." At this point, there is no "build thru model" to review this future plat against. I recommend that the change of zone and comprehensive plan amendment be deferred until the "build thru model" is defined.
2. The proposed change of zone is west of the proposed east by-pass corridor.

Lincoln



Nebraska's Capital City

October 21, 2002

Kent Seacrest  
Seacrest & Kalkowski, P.C.  
1111 Lincoln Mall, Suite 350  
Lincoln, Nebraska 68508-3905

RE: Change of Zone 3370, AG to AGR  
and Comprehensive Plan Amendment #02002, proposal #4  
(112<sup>th</sup> and Old Cheney Rd.)

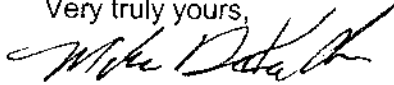
Dear Kent:

Please be aware that there were several inaccuracies and misrepresentations in your presentation to the Planning Commission on October 16, 2002, regarding the referenced change of zone and Comprehensive Plan amendment. Unfortunately, there were no questions to staff but a break was called, and thus no chance to correct the record.

1. You indicated that if this were reviewed under the "old Plan", it would be approved. That is not the case. It was shown as Agriculture in the 1994 Plan.
2. Contrary to your inference, your submittal of the change of zone on June 4, 2002, does not qualify it for approval per the Mayor's reference in item #1. Those applications all were in process prior to adoption of the new Plan on May 28, 2002. In fact, per the Mayor's policy, it should be held until the new review standards have been developed and approved.
3. You stated it will meet the "build through" standard as called for in the Plan; however, those standards have not been developed at this time.

I hope this clarifies your apparent misunderstandings. We will be including this correspondence in the staff report to the City Council. If I can be of any further assistance, please do not hesitate to contact me.

Very truly yours,

  
Michael V. DeKalb

Enclosure: Mayor's Acreage Development Policy dated June 11, 2002.

cc: Marvin Krout, Director of Planning  
Planning Commission  
Mayor Wesely

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021





# Nebraska's Capital City

**TO:** Lincoln City Council  
Lancaster County Board of Commissioners  
City-County Planning Commission

**FROM:** Don Wesely *DW*  
Mayor of Lincoln

**DATE:** June 11, 2002

**SUBJECT:** Acreage Development Policy within Lincoln's Jurisdiction

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On May 28, 2002, the Lincoln City Council and Lancaster County Board adopted a new *Lincoln-Lancaster County Comprehensive Plan*. On the following day, I signed the City Council's resolution approving the Plan for the City. With these actions, we now have a new vision and set of policies to guide growth in the City and County over the next 25 years.

The City Law Department has indicated to me that the policies contained in this new Plan take effect immediately. This fact -- along with the requirement that a number of studies be completed to further refine the Plan's acreage policy -- has raised a procedural issue relative to new acreage in the Tier II and III growth areas. This issue most directly affects eight acreage development requests submitted to the Planning Department for review prior to the adoption of the new Plan.

As called for in the Plan, we need to complete three studies in order to implement our new acreage policy:

- (1) "Build Through" Design Standards, guidelines allowing for future acreage development to be converted to an urban-style configuration when they are brought into the City;
- (2) Cost of Service Review, an independent analysis of the economic and quality of life impacts of acreages; and
- (3) Performance Standard "Point System." allowing for higher density acreage development when certain criteria are met.

The Plan states that the studies should be finished within one year from the adoption of the Comprehensive Plan.

The decision facing us is how to review the acreage development applications submitted prior to the completion of the standards and studies called for in the Plan. This includes the eight applications already submitted (a.k.a., "applications prior to the Plan adoption") as well as future applications submitted after the Plan's adoption date.

Based upon my review of the situation and consideration of all reasonable options, I am proposing that we pursue the following course of action:

1. "Applications Prior to Plan Adoption" – It is my belief that the acreage development applications submitted prior to the adoption of the Comprehensive Plan on May 29<sup>th</sup> should be judged on the basis of standards formulated for the new Plan. While the applications were submitted in advance of the Plan's adoption, the rules of the new Plan apply today, and thus any application process subsequent to the Plan's approval should comply with the new standards. However, I also understand the consideration of "fairness" and the difficulty these transitional situations present in reviewing proposed development. As such, I am prepared in this case to support the Commission, Council, and Board should you choose to review these applications using the standards from the prior Comprehensive Plan. Each case will need to be judged on its own merits and a determination made as to its appropriateness.
2. Future Applications – In support of the ideas and direction of the newly adopted Comprehensive Plan, I believe that any application for an acreage subdivision, change of zone, or community unit plan submitted after May 29<sup>th</sup>, 2002, must be judged against the standards of the new Plan. As such, I am recommending that all such applications be deferred until the new review standards can be developed and approved.

Therefore, I will not support and intend to veto acreage development applications in the Tier II and Tier III areas of the Plan until the studies and standards described above are complete. (The Plan calls for no acreage developments in Tier I. Thus it is my intent to veto any acreage applications in this area even following the adoption of any new standards.) One exception that is acceptable would be to allow three acre agriculture zoned "cluster" development to occur in the Tier II and III areas where 80% or more of the land is set aside and no community systems are used.

3. Undeveloped Areas Currently Zoned and/or Shown for Acreage Development – I understand that undeveloped areas remain in the City's extraterritorial jurisdiction which are shown and/or zoned for future acreage development. In deference to the spirit of the new Plan, I will not oppose new acreage developments in these areas.
4. Pursue Study Initiatives – Lastly, I fully support the immediate initiation of work to craft the standards for acreage development as called for in the new Comprehensive Plan. Unfortunately the "Cost of Services Study" will require funding not available until the start of the City's new fiscal year in September. Until that time I have directed staff to begin work on those areas of the new standards that can be initiated in the interim so that the ultimate completion of this effort will not be delayed.